IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.461 OF 2005

Parshuram B. Machi ..Petitioner.

Vs.

The Estate Manager-V,
Mumbai Housing & Area Development
Board & anr. ..Respondents.

....

Mr.Clifford Martis for the Petitioner.
Mr.P.M.Palshikar for Respondent No.1.
Mr.R.V.Govilkar for Respondent No.2.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

23rd February, 2005.

P.C. :

The competent authority in its order dated 4th July, 2003 allowed the application for eviction, both against the Petitioner who was the original allotee of the premises and the Second Respondent. However, the Estate Manager was granted liberty to consider the application of the

Petitioner for regularization. The order of eviction passed by the competent authority was not challenged by the Petitioner. The Second Respondent took the matter in appeal and the appellate authority allowed the appeal and directed that possession should be restored to the Second Respondent. The appellate authority has accepted the case of the Second Respondent that he was serving in the State Excise Department; that he was required to stay at the place where he was posted and that he had allowed the Petitioner herein to reside in the premises only for a temporary period. The Petitioner having accepted the order of eviction and having not challenged the findings of the competent authority, his plea in these proceedings cannot be entertained. The Petition is accordingly rejected.

Counsel appearing on behalf of the Petitioner prays for some time to vacate the premises. Time to vacate the premises is granted until 31st March , 2005, subject to the filing of the usual undertaking in accordance with the proforma applicable for rent matters within a period of one week from today. The undertaking

shall be of the Petitioner and all adult members of the family.